

10
COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEE FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975..

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Udo NOBEL et al.

Serial No. 09/068,238

Filed May 6, 1998

WINDOW WITH GLAZING PROFILE



Docket No. 00766/RM/X89029/IN-AB-ma

Group Art Unit 5611

RECEIVED

18 DEC 2001

Legal Staff
International Division

PETITION FOR REVIVAL OF APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY
UNDER 37 C.F.R. 1.137(b)

Assistant Commissioner for Patents,
Washington, D.C.

Sir:

In accordance with the Decision dated August 3, 1999, the present application became abandoned as to the National Stage in the United States as of midnight on October 3, 1998. A copy of this Decision is attached.

Applicants' earlier response was considered defective, this response being in response to the Notification of Missing Requirements dated September 3, 1998. Applicants hereby petition for revival of this application. The petition fee of \$1,210.00 is submitted herewith.

The reply submitting declarations in compliance with the Notification of Missing Requirements was submitted previously, on March 26, 1999. Copies of the declarations are attached hereto.

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional.

09/22/1999 KBLANCO 00000093 09068238

01 FC:141

1210.00 CP

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEE FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975..

Applicants note that they were first notified that the application became abandoned upon receipt on August 6, 1999 of the Decision dated August 3, 1999.

Respectfully submitted,

Udo NOBEL et al.

By: 

Nils E. Pedersen

Registration No. 33,145

Attorney for Applicants

NEP/tf
Washington, D.C.
Telephone (202) 721-8200
Facsimile (202) 721-8250
September 21, 1999



03 AUG 1999

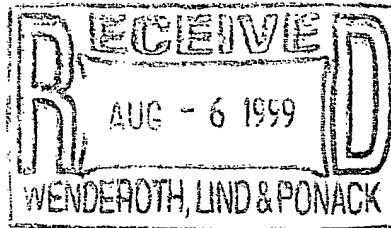


**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Nils E. Pederson
WENDEROTH, LIND & PONACK, L.L.P.
2033 "K" Street N.W.
Suite 800
Washington, DC 20006



In re Application of
Udo NOBEL, et al.
Serial No.: 09/068,238
PCT No.: PCT/IT96/00202
Int. Filing Date: 04 November 1996
Priority Date: 06 November 1995
For: WINDOW WITH GLAZING PROFILE

DECISION

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF A DEFECTIVE RESPONSE" filed 11 January 1999. The Response is being treated as a petition under 37 CFR 1.181 for withdrawal of the Notification of a Defective Response mailed by the Office on 10 December 1998. No petition fee is required.

BACKGROUND

On 04 November 1996, applicants filed international application PCT/IT96/00202, which claimed priority of an earlier Italian application filed 06 November 1995. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 May 1997. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee to enter the national stage in the United States expired at midnight on 06 May 1998.

On 06 May 1998, applicants filed a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371. Filed with the Transmittal Letter were, inter alia, the requisite basic national fee and a copy of the international application published in English as required by 35 U.S.C. 371(c)(1) and (2).

In response to the Notification of Missing Requirements (Form PCT/DO/EO/905) issued by the Office on 03 September 1998, applicants filed on 29 September 1998 two declarations, each executed separately by one of the two joint inventors in the application.

On 10 December 1998, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of a Defective Response (Form PCT/DO/EO/916), which informed applicants that the declaration(s) filed on 29 September 1998 "does not comply with 37 CFR 1.497(a) and (b) in that it does not identify the inventor(s)."

On 11 January 1999, applicants filed the present petition asserting that "the declarations submitted comply with 37 CFR 1.497(a) and (b) and withdrawal of the Notification of a Defective Response is respectfully requested." Applicants argue that "The declaration in this application was submitted as two separate declarations by the respective inventors. Each declaration lists the respective inventor. Thus, the declarations identify the inventors." Then, on 26 March 1999 two supplemental declarations, in which both inventors were listed, were provided.

DISCUSSION

Applicants' arguments have been carefully considered but are not convincing. The MPEP at 1893.01(e) states that "Applicants entering the national stage in the U.S. are required to file an oath or declaration of the inventor in accordance with 37 CFR 1.497(a), (b) and 1.63."

37 CFR 1.497(a)(3) and (b) clearly stipulates the following:

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to §§ 1.494 or 1.495, he or she must file an oath or declaration that:

... (3) Identifies each inventor and the country of citizenship of each inventor; and

(b) The oath or declaration must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43 or 1.47.

37 CFR 1.63(a)(4) also requires that

(a) An oath or declaration filed under § 1.51(b)(2) as a part of an application must:

... (4) State whether the inventor is a sole or joint inventor of the invention claimed.

A review of the application file reveals that the declarations executed by each of the joint inventors failed to list the name of the other joint inventor as required by 37 CFR 1.63(a)(4). Each declaration asserts that the inventor executing the declaration is the sole

inventor, and thus is defective for failure to list all the inventors as required by patent rules and regulations. Accordingly, the Notification of a Defective Response of 10 December 1998 was properly issued.

DECISION

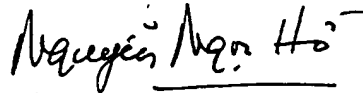
In view of the discussion above, the petition under 37 CFR 1.181 requesting withdrawal of the Notification of a Defective Response mailed by the Office on 10 December 1998 is DISMISSED, without prejudice.

The application is being returned to the DO/EO/US for further processing in view of the supplemental declarations filed 26 March 1999. Applicants are hereby notified that the submission of the declarations on 26 March 1999 is beyond the five months extension available under 37 CFR 1.136(a). Accordingly, the application is ABANDONED as to the national stage in the United States as of midnight on 03 October 1998.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

NNH/LES:hn



Nguyễn Ngọc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

DECLARATION AND POWER OF ATTORNEY FOR U.S. PATENT APPLICATION

() Original () Supplemental (x) Substitute (x) PCT () Design

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I verily believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Title: WINDOW WITH GLAZING PROFILE

of which is described and claimed in:

- () the attached specification, or
 () the specification in the application Serial No. _____ filed _____;
 and with amendments through _____ (if applicable), or
 (x) the specification in International Application No. PCT/IT96/00202, filed 4 November 1996, and as amended
 on _____ (if applicable).

I hereby state that I have reviewed and understand the content of the above-identified specification, including the claims, as amended by any amendment(s) referred to above.

I acknowledge my duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim priority benefits under Title 35, United States Code, §119 (and §172 if this application is for a Design) of any application(s) for patent or inventor's certificate listed below and have also identified below any application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

COUNTRY	APPLICATION NO.	DATE OF FILING	PRIORITY CLAIMED
Italy	RM95U000236	6 November 1995	Yes

I hereby claim the benefit under Title 35, United States Code §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION SERIAL NO.	U.S. FILING DATE	STATUS: PATENTED, PENDING, ABANDONED

And I hereby appoint John T. Miller, Reg. No. 21,120; Michael R. Davis, Reg. No. 25,134; Matthew M. Jacob, Reg. No. 25,154; Jeffrey Nollon, Reg. No. 25,408; Warren M. Cheek, Jr., Reg. No. 33,367; Nils E. Pedersen, Reg. No. 33,145; and, Charles R. Watts, Reg. No. 33,142, who together constitute the firm of WENDEROTH, LIND & PONACK, L.L.P., jointly and severally, attorneys to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith.

I hereby authorize the U.S. attorneys named herein to accept and follow instructions from Societa Italiana Brevetti as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and myself. In the event of a change in the persons from whom instructions may be taken, the U.S. attorneys named herein will be so notified by me.

Send Correspondence to

Direct Telephone Calls to:

WENDEROTH, LIND & PONACK, L.L.P.
Suite 800
2033 K Street, N.W.
Washington, D.C. 20006

WENDEROTH, LIND & PONACK, L.L.P.
Area Code (202) 721-8200

Direct Facsimile Messages to:
Area Code (202) 721-8250

Full Name of First Inventor	FAMILY NAME NOBEL	FIRST GIVEN NAME Udo	SECOND GIVEN NAME
Residence & Citizenship	CITY Siersse	STATE OR COUNTRY Germany	COUNTRY OF CITIZENSHIP Germany
Post Office Address	ADDRESS Am Feuerbrunnen 1	CITY Siersse	STATE OR COUNTRY Germany ZIP CODE D-38159
Full Name of Second Inventor	FAMILY NAME FROST	FIRST GIVEN NAME Mark	SECOND GIVEN NAME Robert
Residence & Citizenship	CITY Ecclestone Chorley Lancashire	STATE OR COUNTRY United Kingdom	COUNTRY OF CITIZENSHIP United Kingdom
Post Office Address	ADDRESS 2 Middlewood Close Ecclestone Chorley Lancashire	CITY United Kingdom	STATE OR COUNTRY PR7 5QG ZIP CODE
Full Name of Third Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE
Full Name of Fourth Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

Full Name of Fifth Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

Full Name of Sixth Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

Full Name of Seventh Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

I further declare that all statements made herein of my own knowledge are true, and that all statements on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

1st Inventor Udo NOBEL Date 23.02.98
2nd Inventor Mark Robert FROST Date _____
3rd Inventor _____ Date _____
4th Inventor _____ Date _____
5th Inventor _____ Date _____
6th Inventor _____ Date _____
7th Inventor _____ Date _____

The above application may be more particularly identified as follows:

U.S. Application Serial No. 09/068,238 Filing Date May 6, 1998
Applicant Reference Number RM/X89029/IN-AB/ma Atty Docket No. 766/X89029/IN-AB/ma
Title of Invention WINDOW WITH GLAZING PROFILE

DECLARATION AND POWER OF ATTORNEY FOR U.S. PATENT APPLICATION

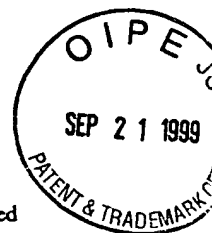
() Original () Supplemental (x) Substitute (x) PCT () Design

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I verily believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Title: WINDOW WITH GLAZING PROFILE

of which is described and claimed in:

- () the attached specification, or
 () the specification in the application Serial No. _____ filed _____;
 and with amendments through _____ (if applicable), or
 (x) the specification in International Application No. PCT/IT96/00202, filed 4 November 1996, and as amended
 on _____ (if applicable).



I hereby state that I have reviewed and understand the content of the above-identified specification, including the claims, as amended by any amendment(s) referred to above.

I acknowledge my duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim priority benefits under Title 35, United States Code, §119 (and §172 if this application is for a Design) of any application(s) for patent or inventor's certificate listed below and have also identified below any application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

COUNTRY	APPLICATION NO.	DATE OF FILING	PRIORITY CLAIMED
Italy	RM95U000236	6 November 1995	Yes

I hereby claim the benefit under Title 35, United States Code §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION SERIAL NO.	U.S. FILING DATE	STATUS: PATENTED, PENDING, ABANDONED

And I hereby appoint John T. Miller, Reg. No. 21,120; Michael R. Davis, Reg. No. 25,134; Matthew M. Jacob, Reg. No. 25,154; Jeffrey Noltan, Reg. No. 25,408; Warren M. Cheek, Jr., Reg. No. 33,367; Nils E. Pedersen, Reg. No. 33,145; and, Charles R. Watts, Reg. No. 33,142, who together constitute the firm of WENDEROTH, LIND & PONACK, L.L.P., jointly and severally, attorneys to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith.

I hereby authorize the U.S. attorneys named herein to accept and follow instructions from Societa Italiana Brevetti as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and myself. In the event of a change in the persons from whom instructions may be taken, the U.S. attorneys named herein will be so notified by me.

Send Correspondence to

Direct Telephone Calls to:

WENDEROTH, LIND & PONACK, L.L.P.
Suite 800
2033 K Street, N.W.
Washington, D.C. 20006

WENDEROTH, LIND & PONACK, L.L.P.
Area Code (202) 721-8200

Direct Facsimile Messages to:
Area Code (202) 721-8250

Full Name of First Inventor	FAMILY NAME NOBEL	FIRST GIVEN NAME Udo	SECOND GIVEN NAME
Residence & Citizenship	CITY Siersse	STATE OR COUNTRY Germany	COUNTRY OF CITIZENSHIP Germany
Post Office Address	ADDRESS Am Feuerbrunnen 1	CITY Siersse	STATE OR COUNTRY Germany ZIP CODE D-38159
Full Name of Second Inventor	FAMILY NAME FROST	FIRST GIVEN NAME Mark	SECOND GIVEN NAME Robert
Residence & Citizenship	CITY Ecclestone Chorley Lancashire	STATE OR COUNTRY United Kingdom	COUNTRY OF CITIZENSHIP United Kingdom
Post Office Address	ADDRESS 2 Middlewood Close Ecclestone Chorley Lancashire	CITY United Kingdom	STATE OR COUNTRY PR7 5QG
Full Name of Third Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE
Full Name of Fourth Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

Full Name of Fifth Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

Full Name of Sixth Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

Full Name of Seventh Inventor	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
Residence & Citizenship	CITY	STATE OR COUNTRY	COUNTRY OF CITIZENSHIP
Post Office Address	ADDRESS	CITY	STATE OR COUNTRY ZIP CODE

I further declare that all statements made herein of my own knowledge are true, and that all statements on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

1st Inventor Udo NOBEL No Robert Frost Date 25th February 1999
2nd Inventor Mark Robert FROST Date _____
3rd Inventor _____ Date _____
4th Inventor _____ Date _____
5th Inventor _____ Date _____
6th Inventor _____ Date _____
7th Inventor _____ Date _____

The above application may be more particularly identified as follows:

U.S. Application Serial No. 09/068,238 Filing Date May 6, 1998
Applicant Reference Number RM/X89029/IN-AB/ma Atty Docket No. 766/X89029/IN-AB/ma
Title of Invention WINDOW WITH GLAZING PROFILE